

S.53 As Passed by Senate and House Further Proposal of Amendment
Section-by-Section Summary – 2/8/2022

Sec.	Tax Type	Notes																				
Sales and Use Tax; Feminine Hygiene Products																						
1	32 V.S.A. §9706(nn) Adds a statutory purpose for new sales tax exemption for feminine hygiene products.	S.53 As Passed by Senate Language needs to be changed as already enacted in Act 73 of 2021.																				
2	32 V.S.A. §9741(56) Creates a sales and use tax exemption for feminine hygiene products following the Streamlined Sales and Use Tax Agreement definition.																					
Corporate Income Tax																						
3	32 V.S.A. § 5811(22) and (24) Subdiv. (22) In definition of affiliated group, deletes references to overseas business organizations. Subdiv. (24) Repeals definition of overseas business organization, which allows for 80/20 rule. <ul style="list-style-type: none"> • 80/20 rule is imposed in regulation and allows overseas business organizations that have 80% or more of property and payroll outside of U.S. to exclude their apportionment factors from the Vermont numerator. 	House proposal of amendment																				
4	32 V.S.A. § 5832(2) Changes brackets and amounts for minimum corporate income tax <table border="0" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"><u>Vermont gross receipts</u></th> <th style="text-align: left;"><u>Minimum tax amount</u></th> </tr> </thead> <tbody> <tr> <td>\$0-100,000</td> <td>\$250</td> </tr> <tr> <td>\$100,001-\$1 million</td> <td>\$500</td> </tr> <tr> <td>Over \$1 million to \$5 million</td> <td>\$2,000</td> </tr> <tr> <td>Over \$5 million to \$300 million</td> <td>\$6,000</td> </tr> <tr> <td>Over \$300 million</td> <td>\$100,000</td> </tr> </tbody> </table> Current minimum corporate income tax <table border="0" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"><u>Vermont gross receipts</u></th> <th style="text-align: left;"><u>Minimum tax amount</u></th> </tr> </thead> <tbody> <tr> <td>\$0-\$2 million</td> <td>\$300</td> </tr> <tr> <td>Over \$2 million to \$5 million</td> <td>\$500</td> </tr> <tr> <td>Over \$5 million</td> <td>\$750</td> </tr> </tbody> </table> \$75 for small farm corporations	<u>Vermont gross receipts</u>	<u>Minimum tax amount</u>	\$0-100,000	\$250	\$100,001-\$1 million	\$500	Over \$1 million to \$5 million	\$2,000	Over \$5 million to \$300 million	\$6,000	Over \$300 million	\$100,000	<u>Vermont gross receipts</u>	<u>Minimum tax amount</u>	\$0-\$2 million	\$300	Over \$2 million to \$5 million	\$500	Over \$5 million	\$750	House proposal of amendment
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5	32 V.S.A. § 5833(d) Amends the apportionment factors for taxable corporations with activity both inside and outside Vermont, so that the only factor taken into account will be the sales factor (also known as “single sales factor”). Repeal of “throwback” rule	House proposal of amendment																				

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	<ul style="list-style-type: none"> • Throwback occurs when there is “nowhere income,” which is income from sales of tangible personal property made from Vermont that are not taxed either because the sales are made to the federal government, or because the “corporation is not taxable in the State in which the purchaser takes possession.” 32 V.S.A. § 5833(a)(3)(A)(ii). • Currently, nowhere sales are “thrown back” to Vermont. <i>Id.</i> <p>Requires taxable C corporations subject to apportionment to continue to report their property and payroll to the Commissioner of Taxes when Vermont moves to a single sales factor for apportionment.</p>	
6	<p>32 V.S.A. § 5862(d)</p> <p>Moves Vermont to Finnigan method of applying state jurisdiction to income of all corporations within a unitary combined filing group, even those that do not have nexus with Vermont.</p> <p>Supersedes 80/20 rule: requires income and apportionment factors of all taxable corporations incorporated in the U.S. that are part of a unitary combined filing group to be included in that group’s return.</p> <p>To determine apportionable income, income, gains, or losses from all members are combined, except state tax credits will not be combined and will be limited to the members holding the credits.</p>	House proposal of amendment
7	<p>Transition from Joyce to Finnigan Method</p> <p>Starting Jan. 1, 2022, Vermont will use the Finnigan method, which means that if any member of a unitary group has nexus with Vermont, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group will be included in the Vermont sales factor numerator.</p>	House proposal of amendment
8	<p>Rulemaking and report by Dept. of Taxes</p> <p>Dept. of Taxes is required to adopt rules relating to the new unitary combined reporting requirements and report back to the General Assembly about the rulemaking process and any proposed legislation by Jan. 15. 2023.</p>	House proposal of amendment
Sales and Use Tax; Prewritten Computer Software		
9	<p>32 V.S.A. § 9701(60)</p> <p>Creates new definition of “vendor-hosted prewritten computer software,” which applies to canned software accessed through the Internet or a vendor-hosted server or platform, including where possession of the software is maintained by the vendor or a third party.</p> <p>The definition applies to software regardless of the method of delivery or transfer, whether the access is permanent or temporary, and the basis for the charge for the right of access (per use, per user, per license, subscription or some other basis).</p>	House proposal of amendment
10–11	32 V.S.A. §§ 9771 and 9773	House proposal of amendment

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	Imposes sales and use tax on vendor-hosted prewritten computer software and right to access that software to provide data processing services, as a separate category from tangible personal property.	
12	2015 Acts and Resolves No. 51, Sec. G.8 Repeals 2015 session law exemption for prewritten computer software accessed remotely.	House proposal of amendment
Fees; Dept. of Financial Regulation		
13	9 V.S.A. § 5302(f) Increases annual renewal fee paid by investment companies from \$1,500.00 to \$1,750. Initial fee is maintained at \$2,000.	House proposal of amendment
Income Tax Exemption; Military Retirement Income		
14	32 V.S.A. § 5811(21)(B) Excludes the first \$10,000 of federally taxable U.S. military retirement pay from taxable income.	House proposal of amendment
15	32 V.S.A. § 5813(y) Adds a statutory purpose for the military retirement exclusion, which is to recognize the military service of Vermonters who derive part of their income from military retirement pay.	House proposal of amendment
Effective Dates		
16	Default effective date is July 1, 2021	Language needs to be changed, as this date has already passed and language does not authorize retroactive effect.
(1)	January 1, 2022 <ul style="list-style-type: none"> • Sec. 3 (80/20 rule definitions) • Sec. 4 (minimum corporate income tax) • Sec. 5 (single sales factor, repeal of throwback, report of property and payroll) • Secs. 6–7 (Finnigan method and 80/20 rule) 	House proposal of amendment
(2)	June 1, 2022 for Secs. 9–12 (prewritten computer software)	House proposal of amendment
(3)	January 1, 2021 (retroactive) <ul style="list-style-type: none"> • Income tax exemption for first \$10,000 of military retirement income 	House proposal of amendment